

MINUTES
MALIBU CITY COUNCIL
REGULAR MEETING
OCTOBER 28, 2002
HUGHES AUDITORIUM
6:30 P.M.

CALL TO ORDER

Mayor Jennings called the meeting to order at 6:45 p.m.

ROLL CALL

The following persons were recorded in attendance by the Recording Secretary:

PRESENT: Mayor Jeffrey Jennings, Mayor Pro Tem Ken Kearsley, Councilmembers Sharon Barovsky, Joan House and Andrew Stern.

ALSO PRESENT: Katie Lichtig, City Manager; Christi Hogin, City Attorney; Julia James, Administrative Services Director; Drew Purvis, Planning Director; Vic Peterson, Building Official; Rick Morgan, City Engineer / Acting Public Works Director; Paul Adams, Parks and Recreation Director; and Lisa Pope, City Clerk

FLAG SALUTE

Emmet Pierson led the Pledge of Allegiance.

CLOSED SESSION REPORT

City Attorney Hogin reported that the Council met in closed session at 5:30 p.m. to discuss the following items:

Existing litigation per Government Code Section 54956.9 (a):

1. Antario v. City of Malibu
Los Angeles County Superior Court Case No. BC253990
2. Brown v. City of Malibu
Ventura County Superior Court Case No. CIV212554
3. Cher v. City of Malibu
Los Angeles County Superior Court Case No. SS10632
4. Chicksands Properties LTD. v. City of Malibu et al.
Los Angeles County Superior Court Case No. BS072081
5. City of Malibu v. California Coastal Commission
Los Angeles County Superior Court Case No. BC230410
6. City of Malibu v. Santa Monica Mountains Conservancy (Streisand Center)

Ventura County Superior Court Case No. CIV193900

7. Coffman v. City of Malibu
Los Angeles County Superior Court Case No. BC246067
8. Darian v. Accent Builders et al.
United States District Court Case No. 00-10255-FMC(JWJ)
9. Keach v. City of Malibu
Los Angeles County Superior Court Case No. SS009723
10. Levenson v. City of Malibu et al.
Los Angeles County Superior Court Case No. SC059037
11. Marine Forest Society v. California Coastal Commission Case No. 00AS00567
(Sacramento Superior Court) (Amicus)
12. Nese v. City of Malibu
Los Angeles County Superior Court Case No. SC070775
13. Rubens v. City of Malibu
Los Angeles County Superior Court Case No. SC060331
14. Sierra Club v. City of Malibu
Los Angeles County Superior Court Case No. BS064912
15. Silver v. City of Malibu
Los Angeles County Superior Court Case No. BC255025
16. Sprint v. City of Malibu et al
United States District Court Case No. SACV02660 DOC (MLGx)
17. Taxpayers for Livable Communities; Jay Liebig v. City of Malibu
Los Angeles County Superior Court Case No. BC258432
18. Taxpayers for Livable Communities; Jay Liebig II v. City of Malibu
Los Angeles County Superior Court Case No. BS0735585
19. Taxpayers for Livable Communities, Povah, et al. v. City of Malibu
Los Angeles County Superior Court Case No. BS072794

Initiation of Litigation pursuant to Government Code Section 54956.9(c):

20. Number of cases: 2

Personnel matters pursuant to Government Code Section 54957:

21. Public Employee Performance Evaluation
Title: City Treasurer

Conference With Legal Counsel – Anticipated Litigation pursuant to Government Code Section 54956.9(b):

22. Number of Cases: 1

City Attorney Hogin announced that the Council discussed most but not all items listed on the posted agenda and took the following reportable actions:

- 1) Authorized the City Attorney's office to file a lawsuit against the California Coastal Commission seeking a writ of mandate compelling the Coastal Commission to issue coastal development permits while no Local Coastal Program is in effect in the City of Malibu; and
- 2) Authorized the City Attorney's office to file litigation challenging the Local Coastal Program adopted under AB988.

APPROVAL OF AGENDA

MOTION Councilmember House moved and Councilmember Barovsky seconded a motion to approve the agenda with Item 4.A. continued to the regularly scheduled City Council meeting of November 12, 2002. The motion carried unanimously.

REPORT ON POSTING OF AGENDA

City Clerk Pope reported that the agenda for the meeting was posted on October 18, 2002.

ITEM 1 CEREMONIAL/PRESENTATIONS

- A. Proclamation Declaring October 31, 2002 as "Trick-or-Treat for UNICEF" Day

Mayor Jennings presented the proclamation declaring October 31, 2002 as "Trick-or-Treat for UNICEF" Day to Carol Levy. Carol Levy thanked the Council for supporting Trick-or-Treat for UNICEF.

By acclamation, the Council approved the proclamation.

- B. Introduction of Assistant Fire Chief Paul Schuster and Presentation on Wildfire Preparedness

Assistant Fire Chief Paul Schuster introduced Maria Grycan, Community Services Representative. He provided an update on wild land fire preparation including interagency meetings and equipment preparation.

Mayor Jennings expressed concern regarding traffic control and an adequate supply of maps and directions for outside agencies assisting the City during disasters. He requested information on the status of the swimming pool placard program.

ITEM 2

A. PUBLIC COMMENTS

Patt Healy requested an extension of the comment period for the Environmental Impact Report for the Malibu Bay Company Development Agreement.

B. COUNCIL COMMENTS

Councilmember Barovsky stated she attended Career Day at Webster Elementary School. She thanked the students for attending the Council meeting in support of UNICEF day.

Mayor Pro Tem Kearsley discussed his experience at Career Day at Webster Elementary School.

Councilmember House welcomed the students to the City Council meeting and wished them luck on Trick-or-Treating for UNICEF. She read a letter from the International Institute of Municipal Clerks announcing City Clerk Pope's designation as Certified Municipal Clerk. She discussed the status and cost of the Shears case. She discussed the recent Cops and Council dinner. She stated she attended a 2020 Visioning meeting and the Malibu High School Football game.

Councilmember Stern discussed the website CaliforniaCoastline.org which includes photographs of the coast in the City of Malibu.

Mayor Jennings discussed the website mentioned by Councilmember Stern. He stated the photographs were taken to aid in enforcement of laws affecting the coastal zone. He stated he had received an inquiry from the Secretary of the Civil Grand Jury asking for nominees. He alerted the community of the Hazardous Waste Cleanup on December 7, 2002, 10:00 a.m. – 3:00 p.m., at 23555 Civic Center Way. He announced the State Parks meeting at Duke's Restaurant to select a master concessionaire. He discussed recent events he had attended.

ITEM 3 CONSENT CALENDAR

Mayor Jennings pulled Item 3.B.7.

MOTION Councilmember Barovsky moved and Councilmember Stern seconded a motion to approve the Consent Calendar, with the exception of Item No. 3.B.7. The motion carried unanimously.

The Consent Calendar consisted of the following items:

A. Previously Discussed Items

1. Second Reading and Adoption of Ordinance No. 242 Adopting the California Building Standards Code by Reference

Staff recommendation: Conduct second reading, unless waived, and adopt Ordinance No. 242, adopting the 2001 California Building Standards Code by Reference.

B. New Items

1. Waive further reading

Staff recommendation: After the City Attorney has read the title, waive full reading of ordinances considered on this agenda for introduction on first reading and/or second reading and adoption.

Staff contact: City Attorney Hogin, 456-2489 ext. 228

2. Approve Warrants

Staff recommendation: To allow and approve warrant demand numbers 20363 through 20435 listed on the register from the General Fund and direct the City Treasurer to pay out the funds to each of the claimants listed in Warrant Register No. 271 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands, including payroll checks, in a total amount of \$823,777.16 including ADP payroll voucher numbers 22783035-3054.

3. Re-affirm the State of Local Emergency Declared by the Director of Emergency Services on March 9, 2001 relating to the Landslide Road Failure at Corral Canyon

Staff recommendation: Re-affirm the State of Local Emergency by minute order.

4. Council Authorization for the Building Safety Director, Victor Peterson, to Negotiate, Sign and Execute a Contract with the State Water Quality Control Board for a Clean Beaches Initiative Grant Fund Project (Proposition 13)

Staff recommendation: Authorize the Director of Building Safety to negotiate for and ultimately sign and execute a contract for the Clean Beaches Initiative Proposition 13 grant fund project "Implementation of the Santa Monica Bay Restoration Project Septic System Management Plan."

5. \$155,000 Trancas Canyon Park – Proposition 12 Per Capita Grant Application

Staff recommendation: Adopt Resolution No. 02-46 approving the application for grant funding from the California Department of Parks and Recreation Per Capita Grant Program under the Safe Neighborhood Parks, Clean Water, Clean Air and Coastal Protection Bond Act of 2000.

6. Approval of Final Parcel Map No. 18986 (Monkarsh – 20656 Pacific Coast Highway)

Staff recommendation: Adopt Resolution No. 02-47 approving Final Parcel Map No. 18986 for recordation.

8. Cancellation of December 23, 2002 City Council Meeting

Staff recommendation: Cancel the Regular City Council meeting of December 23, 2002.

The following item was pulled from the consent calendar for individual consideration:

7. Request For Waiver of Permit Fees For The Odyssey School's Use of Bluffs Park

Staff recommendation: Waive fees for the permit application from Odyssey School for the use of Malibu Bluffs Park.

Parks and Recreation Director Adams presented the staff report.

Mayor Jennings expressed discomfort with the Council deciding on fee waivers on a case by case basis. He suggested guidelines be developed to allow staff to exercise discretion in the case of fee waivers.

Steve Mecham, Odyssey School, discussed the special needs program offered by Odyssey School and their request for use of Bluffs Park. He urged the Council to approve the waiver.

Jonathon Dunkar, Odyssey School, discussed the possibility of Odyssey School students participating in a non-native plant removal project at Bluffs Park in lieu of the permit fees.

Doug O'Brien suggested fee waiver requests be brought to the Parks and Recreation Commission prior to coming to the City Council.

Councilmember House stated the use by Odyssey School was appropriate at Bluffs Park. She suggested the Parks and Recreation Commission establish a fee waiver policy.

Mayor Pro Tem Kearsley agreed that it was necessary to establish a policy which could be written by the Parks and Recreation Commission. He suggested an interim approval for the fee waiver request by Odyssey School.

Councilmember Stern indicated support for granting the fee waiver.

Councilmember Barovsky indicated support for granting the fee waiver and the Parks and Recreation Commission developing a fee waiver policy.

MOTION Mayor Pro Tem Kearsley moved and Councilmember House seconded a motion to waive fees for the permit application from Odyssey School for the use of Malibu Bluffs Park and direct the Parks and Recreation Commission, with input

from the Parks and Recreation Director, to develop a fee waiver policy for approval by the City Council. The motion carried unanimously.

ITEM 4 ORDINANCES AND PUBLIC HEARINGS

- A. Appeal No. 02-006 – An Appeal of the Planning Commission’s Resolution No. 02-17 Conditionally Approving Plot Plan Review 00-129 and Site Plan Review 00-083 for the Construction of a New Two-Story Single-Family Bluff-Top Residence Above the Base 18-feet in Height. Appellant: Patt Healy and/or Malibu Coalition for Slow Growth; Applicant: Barsocchini & Associates; Owner: Arthur and Kimberly Silver; Location: 24950 Pacific Coast Highway
Staff recommendation: Continue to the City Council regularly scheduled meeting of November 12, 2002 in order to afford the Coastal Commission staff additional time to prepare a written recommendation regarding the project’s potential to impact public views.

This item was continued to November 12, 2002 upon approval of the agenda.

ITEM 5 OLD BUSINESS

- A. Local Coastal Program Application – Strategy for Developing a Comprehensive Local Coastal Program
Staff recommendation: Consider the strategy presented in the staff report and provide direction to staff.

Planning Director Purvis presented the staff report.

Norm Haynie stated the City owed the City Council a debt of gratitude for its work to establish an LCP consistent with General Plan objectives and goals of the City. He requested a list of those types of projects that do not rise to the level of requiring a public hearing. He questioned whether putting in a garbage disposal or planting a fruit tree required a coastal development permit.

CONSENSUS

By consensus, the Council determined to re-affirm the role of Mayor and Mayor Pro Tem to provide advice and counsel to the City staff and consultant regarding the Land Use Plan and Local Implementation Plan.

City Attorney Hogin explained that the Council was not creating a standing subcommittee or any committee under the Brown Act, that the Mayor and Mayor Pro Tem would be advancing the City’s cause and telling the City’s story but not taking any action for the City Council, that their finite task was to get the City through the amendment process.

The Council discussed the process for LCP amendments in regard to the list of zoning ordinance amendments included in the staff report. The Council and staff discussed the status and time necessary to complete the listed zone text amendments.

Mayor Jennings explained that he envisioned working through the adopted LCP chapter by chapter, utilizing the City's matrix as an alternative to work towards the City's application. City Manager Lichtig requested concurrence from the Council indicating priorities for the development review process. Mayor Jennings suggested the Mayor and Mayor Pro Tem prioritize with staff.

Mayor Pro Tem Kearsley stated he would like input from the Council as to their highest priorities. He stated the hillside ordinance was his highest priority.

Councilmember Barovsky stated she was content with allowing the Mayor and Mayor Pro Tem to prioritize on behalf of the Council.

Councilmember House stated the hillside ordinance was one of her priorities.

Mayor Pro Tem Kearsley indicated his priorities were the hillside ordinance, development permits and landscape.

CONSENSUS

By consensus, the Council determined to allow the Mayor and Mayor Pro Tem to determine the priorities for the IZO and other miscellaneous projects and decide which to include in the City's LCP application.

Mayor Jennings stated special meetings might be necessary to review the material. He suggested staff create a schedule to complete the process.

Mayor Jennings indicated support for the LSA contract.

MOTION Councilmember House moved and Mayor Jennings seconded a motion to approve the professional services agreement between the City and Lloyd Zola from LSA.

Councilmember House requested specific information on reimbursable expenses. City Manager Lichtig explained that reimbursements would be provided for official travel and mileage. Councilmember House requested a list of specific charges. City Manager Lichtig agreed to include a list in the contract with LSA and suggested placing a \$9000 cap on reimbursable expenses, with a maximum contract amount of \$80,000.

AMENDMENT

Councilmember House amended the motion to include a cap of \$9,000 on reimbursable expenses. Mayor Jennings accepted the amendment.

The amended motion carried unanimously.

Mayor Jennings discussed the referendum and how to deal with the California Coastal Commission and press. He requested the City Manager come back with a more global approach, whether it be a more aggressive public relations policy or lobbyist.

Councilmember House requested staff reports on future consultants include the fiscal impact for the current budget year.

Councilmember Barovsky asked if the Mayor was suggesting a City lobbyist or use of the previous consultants. Mayor Jennings stated he was asking the City Manager to come back with a recommendation.

Councilmember Barovsky suggested a communications officer to put out press releases.

Mayor Pro Tem Kearsley stated it was necessary to counter misinformation with the truth. He suggested a full time information officer or a consultant to disperse information.

City Manager Lichtig reiterated that the Council was asking for a proposal to address a consultant for issues related to the LCP, Bluffs Park, media relations and other crisis which may occur.

ITEM 6 NEW BUSINESS

None.

ITEM 7 COUNCIL ITEMS

- A. Appointment by Councilmember House to the Malibu Planning Commission
Recommendation: Councilmember House to make an appointment to the Malibu Planning Commission.

Councilmember House appointed John Sibert to the Planning Commission.

- B. Council Appointments to City Commissions and Committees
Staff recommendation: Appoint new Commission and Committee members to various City Commissions and Committees.

Councilmember Barovsky appointed Les Moss to the Mobilehome Park Rent Stabilization Commission.

Councilmember Barovsky appointed Norman Ollestad to the Parks and Recreation Commission.

Mayor Pro Tem Kearsley appointed Toni Semple to the Trails Master Plan Advisory Committee.

Councilmember Stern appointed Don Richstone to the Trails Master Plan Advisory Committee.

Mayor Jennings announced that Laura Rosenthal was resigning from the Parks and Recreation Commission. He announced that Jennifer Skophammer was resigning from the Trails Master Plan Advisory Committee.

Councilmember Barovsky requested past applications be retained for use for future vacancies.

MOTION Councilmember House moved and Councilmember Barovsky seconded a motion to direct the City Clerk to modify the Commission/Committee application form to allow applicants the opportunity to indicate if they would like their application retained for future vacancies. The motion carried unanimously.

By acclamation, the Council appointed Cameron Losy and Jeannie Yamamoto to the Native American Cultural Resources Advisory Committee.

ADJOURN At 8:17 p.m., Councilmember House moved and Councilmember Stern seconded a motion to adjourn. The motion carried unanimously.

Approved and adopted by the City Council of
the City of Malibu on November 25, 2002.

JEFFREY D. JENNINGS, Mayor

ATTEST:

LISA POPE, City Clerk
(seal)